



# CITY OF MCMINNVILLE, TENNESSEE

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COMMUNITY DEVELOPMENT DEPARTMENT  
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**To:** Board of Zoning Appeals Member  
**From:** Community Development  
**Subject:** January 28, 2020 Public Hearings and Meeting  
**Date:** January 23, 2020

The McMinnville Board of Zoning Appeals will meet and hold public hearings on Tuesday, January 28, 2020 at 11:00 am in the conference room at the Public Works Building (1266 Belmont Drive).

1. McMinnville Board of Zoning Appeals meeting called to order
2. Approval of Minutes from November 26, 2019 meeting
3. Review – Variance request for sign on property located at 1100 Smithville Hwy
4. Public Hearing - Variance request for sign on property located at 1100 Smithville Hwy
5. New/Old Business
6. Adjourn

## Staff Report

The McMinnville Board of Zoning Appeals will be reviewing a variance request for a sign on property located at 1100 Smithville Hwy, further identified as Map 059K, Group D Parcel 020.00 of Warren County Tax Maps. The property is zoned C-3. The proposed request is to reduce the required 5 ft setback from the right of way to 0 ft for the sign and all for a sign to be located in a manner which may obstruct free or clear vision.

In June 2019, the Community Development Department received a complaint that this sign blocked the line of sight between the Plaza Shopping Center driveway and Smithville Highway when turning out of the driveway. In investigating this sign, our inspector learned that the sign is an existing sign which a new owner had recently bought and modified in a significant way. Major modifications trigger a need for a sign permit.

While there is a provision in the Sign Code for existing nonconforming signs, we believe that the major modification which warranted the sign permit required a new review of the compliance of the sign to the Sign Code. Owners of signs can make repairs or minor modifications to signs which would allow for their continued existence as a nonconforming sign. Nothing in the Sign Code specifically addresses how the nonconforming sign provision would work if a sign is sold and work on the sign requires a new sign permit. Here is the language of the provision:

14-1405.11: All nonconforming signs, which existed lawfully at the time of the enactment of this Official Sign Code, shall be allowed to remain and shall be considered as "grandfathered" in place. Mobile or portable signs shall not be "grandfathered."

Our inspector sent a letter asking the sign owner to come in for a sign permit. Upon reviewing the sign in relation to the sign code, the review found that it did not comply with two provisions of the sign code, and we advised the owner to seek a variance. Here are the two provisions:

14-1405.1: No sign shall be located in such a manner so as to obstruct free or clear vision or cause hazards for vehicular or pedestrian traffic by reason of location, shape, illumination or color.

14-1408.3 E: No part of any on-premise freestanding sign shall be closer than 5 feet from any street right of way line or property line.

When reviewing the criteria for variance, the Board of Zoning appeals shall ascertain that the following are met:

- a. The particular physical surrounding, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of the zoning resolution were carried out;
- b. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same zoning district;
- c. The variance will not authorize, in a zone district, activities other than those permitted by the zoning ordinance;
- d. Financial returns only shall not be considered as a basis for granting a variance;
- e. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of the zoning code;

- f. The granting of the variance requested will not confer on the applicant any special privilege that is denied by the zoning code to other lands, structures, or buildings in the same zoning district;
- g. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- h. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which property is located; and
- i. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

Staff questions whether this sign meets criteria h. This concern is based on the relationship to the right of way (aka the utility pole) which impacts the line of sight from the driveway and the complaint that the sign interferes with the free and clear vision from the Plaza driveway.